

THE
AMERICAN
CONSERVATIVE
UNION

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

September 14, 2007

2007 SEP 14 P 4:30:00 2007 SEP 14 P 4:30

Mr. Robert Lenhard, Chairman
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

MUR# 5939

RE: Complaint Against MoveOn.org Political Action, and the
New York Times Company

Dear Chairman Lenhard:

This is a formal complaint against MoveOn.org Political Action and the New York Times Company for violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act") and the Bipartisan Campaign Reform Act of 2002 ("BCRA") ("Complaint").

The Complaint is filed pursuant to 2 U.S.C. §437g(a)(1) and 11 C.F.R. §111.4 by the American Conservative Union, Inc. ("ACU"). The undersigned serves as Chairman of ACU, a 501(c)(4) non-profit corporation and the nation's oldest and largest conservative grassroots lobbying organization.

The Complaint is based upon publicly available information and numerous media reports documenting the illegal excessive corporate contribution from the New York Times Company to MoveOn.org Political Action as more specifically detailed below, and which reports are referenced herein and/or attached as exhibits to this Complaint.

Respondent MoveOn.org Political Action (hereafter "MoveOn") is a registered multi-candidate political committee as that term is defined by FECA (2 U.S.C. §431(4)(A)) and 11 C.F.R. §100.5. *Exhibit A, Statement of Organization of MoveOn.org Political Action, Committee Identification #: C00341396*

The New York Times Company is a media corporation whose stock is publicly traded with 2006 revenues of \$3.3 billion, which publishes newspapers including The New York Times, the International Herald Tribune, The Boston Globe, 15 other daily newspapers, owns WQXR-FM and more than 30 Web sites, including NYTimes.com, Boston.com and About.com.

On Monday, September 10, 2007, MoveOn sponsored a full page advertisement in the New York Times attacking General David Petraeus prior to his report to Congress regarding the status of the United States military operations in Iraq ("the Ad"). *See Exhibit B, Advertisement in September 10, 2007 New York Times.*

The open rate for a full page black and white advertisement in the New York Times is \$181,692, according to a spokesman for the New York Times. Another representative of the

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New York Times advised a reporter that to purchase a full page black and white advertisement in the New York Times would cost \$167,000, according to published reports. A spokesman for MoveOn stated that it paid only \$65,000 for the Ad. The New York Times Company has given a discount of between \$102,000 and more than \$116,000 from the stated rate for similar advertising by other advertisers. *See Exhibit C, "Times Gives Lefties a Hefty Discount for 'Betray Us' Ad", article by Charles Hurt, New York Post, September 13, 2007; Exhibit D, "MoveOn Got Timely Break on Ad Rate," Washington Times, September 14, 2007.*

The New York Times Company's \$100,000+ discount to MoveOn for the Ad constitutes a corporate soft money contribution to a federal political committee.

MoveOn's acceptance of the discount constitutes acceptance of a soft money contribution from a prohibited source (the New York Times Company) in excess of federal contribution limits.

Contributions to political committees such as MoveOn are limited by federal law to \$5,000 per calendar year and corporations such as the New York Times Company are prohibited by federal law from making *any* contributions to a federal political committee such as MoveOn. 2 U.S.C. §441a and 2 U.S.C. §441b.

The Act defines a contribution as *anything of value*. 2 U.S.C. §441a

The regulations of the Federal Election Commission ("FEC regulations") state:

"The provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution..." If goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged the political committee." See 11 C.F.R. §100.52(d)(1).

The FEC regulations also provide that the *usual and normal charge for goods* means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution." 11 C.F.R. §100.52(d)(2).

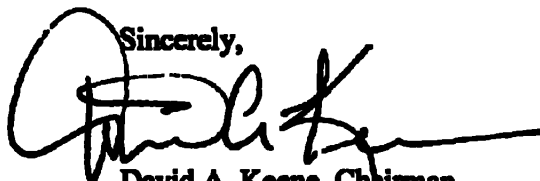
The discount provided to MoveOn by the New York Times constitutes an illegal soft money corporate contribution to a federal political committee in violation of 2 U.S.C. § 441b and 11 C.F. R. §114.2. The amount of the discount is further an excessive contribution of soft money in excess of the statutory contribution limit of \$5,000 per calendar year from a donor to a federal PAC, in violation of 2 U.S.C. § 441a and 11 C.F.R. §110.1(d). MoveOn has further violated the provisions of 11 C.F.R. §110.9 by knowingly accepting an illegal contribution from the New York Times Company.

ACU demands a full and thorough investigation of the cost of the Ad and the discount given by the New York Times Company to MoveOn.org Political Action, for payment by

MoveOn of the usual and normal charge for the costs of the Ad and the requisite civil money penalty for violation of federal law by each of the Respondents.

Please contact me if you have further questions regarding this Complaint.

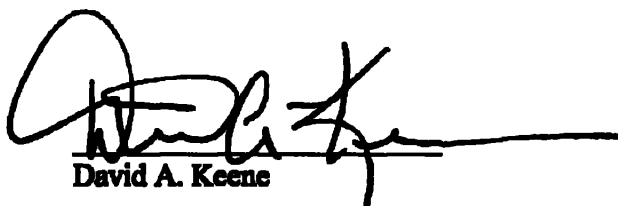
Sincerely,



David A. Keene, Chairman
American Conservative Union

AFFIDAVIT

I hereby swear upon penalty of perjury that the above and foregoing Complaint is true and correct to the best of my knowledge and belief, based upon the information from the public sources referenced herein.


David A. Keene

Sworn and subscribed before me this 14th day of September, 2007.

NOTARY SEAL


Notary Public

My Commission Expires: 3/3/2009

EXHIBIT A Page 1 of 4

08/30/2006 12:20

FEC
FORM 1STATEMENT OF
ORGANIZATION

(See instructions)

770-31 000

1. NAME OF COMMITTEE (in full) ☒ (Check if name is changed) Example: If typing, type over the line 12FE41M3

NOVISON.ORG POLITICAL ACTION

ADDRESS (street or rural)

PO BOX 8818

(Check if address is changed)

SERVIEREY

GA

34708

CITY

STATE

ZIP CODE

COMMITTEE'S E-MAIL ADDRESS

info@novisonpol.org

COMMITTEE'S WEB PAGE ADDRESS (URL)

WWW.NOVISOPOL.ORG

COMMITTEE'S FAX NUMBER

800872808

2. DATE 08 / 28 / 2006

3. FEC IDENTIFICATION NUMBER C 000341396

4. IS THIS STATEMENT NEW ☐ OR ☒ AMENDED (A)

I certify that I have executed this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Wes Boyd

Signature of Treasurer Electronically Filed by Wes Boyd

Date 08 / 28 / 2006

NOTE: Submission of false, inaccurate, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. 5471g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

Official
Use
OnlyFor further information contact:
Federal Election Commission
Toll Free 800-424-9600
Local 202-556-1100FEC FORM 1
(Revised 02/2005)

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Page 2

(a) **This committee is a principal campaign committee. (Complete the candidate information below.)**

(b) **This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)**

Name of Candidate _____

Candidate Party Affiliation	Office Sought	Home	Gender	President	State District
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(c) **This committee supports/approves only one candidate, and is NOT an authorized committee.**

[illegible]

(c) This committee is a (National, State (or territorial) committee of the (Democratic, Republican, etc.) Party.

(c) This variable is a separate segregated fund.

(7) * This committee supports/opposes more than one Federal candidate, and is NOT a separate registered fund or party committee.

5. Name of Any Contracted Organization or Advisory Committee

[illegible]

Mailing Address

CITY &

STATE

IT COOL 

[illegible]

Type of Converted Organization:

Conclusions

Corporation with Control Stock

Letter Organization

Member's Credentials

Trade Association

Conclusions

EXHIBIT A Page 3 of 4

FEC Form 1 (Revised 02/2003)

Page 3

Write or Type Committee Name

MOVEON.ORG POLITICAL ACTION

7. **Custodian of Records** Identify by name, address, (phone number - optional), and position of the person in possession of Committee books and records.

Full Name Carrie Olson

Mailing Address 1408 Grant Street

Berkeley CA 94705
 Title or Position VP CITY STATE ZIP CODE

Telephone number - - - - -

8. **Treasurer** List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name of Treasurer Wes Boyd

Mailing Address 1141 Walnut Street

Berkeley CA 94707
 Title or Position VP CITY STATE ZIP CODE

Telephone number - - - - -

Full Name of Designated Agent Neil Rusty

Mailing Address 80 E Street, SE

Suite 800

Washington DC 20005
 Title or Position VP CITY STATE ZIP CODE

Assistant Treasurer Telephone number - - - - -

EXHIBIT A Page 4 of 4

PEC Form 1 (Revised 02/2003)

Page 4

2. Banks or Other Depositories List of banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.
Name of Bank, Depository, etc.

Wells Fargo Bank
3500 College Avenue
Berkeley CA 94705
CITY STATE ZIP CODE



GENERAL PETRAEUS OR GENERAL BETRAY US?

Cooking the Books for the White House

General Petraeus is a military man constantly at war with the facts. In 2004, just before the election, he said there was "tangible progress" in Iraq and that "Iraqi leaders are stepping forward." And last week Petraeus, the architect of the escalation of troops in Iraq, said, "We say we have achieved progress, and we are obviously going to do everything we can to build on that progress."

Every independent report on the ground situation in Iraq shows that the surge strategy has failed. Yet the General claims a reduction in violence. That's because, according to the *New York Times*, the Pentagon has adopted a bizarre formula for keeping tabs on violence. For example, deaths by car bombs don't count. The *Washington Post* reported that assassinations only count if you're shot in the back of the head — not the front. According to the *Associated Press*, there have been more civilian deaths and more American soldier deaths in the past three months than in any other summer we've been there. We'll hear of neighborhoods where violence has decreased. But we won't hear that these neighborhoods have been ethnically cleansed.

Most importantly, General Petraeus will not admit what everyone knows: Iraq is mired in an unwinable religious civil war. We may hear of a plan to withdraw a few thousand American troops. But we won't hear what Americans are desperate to hear: a timetable for withdrawing all our troops. General Petraeus has actually said American troops will need to stay in Iraq for as long as ten years.

Today, before Congress and before the American people, General Petraeus is likely to become General Betray Us.

MoveOn.ORG
POLITICAL ACTION

NEW YORK POST

TIMES GIVES LEFTIES A HEFTY DISCOUNT FOR 'BETRAY US' AD

By CHARLES HURT Bureau Chief

See
absolutely
positively
everything
at the
Emmys.

September 13, 2007 – WASHINGTON - The New York Times dramatically slashed its normal rates for a full-page advertisement for MoveOn.org's ad questioning the integrity of Gen. David Petraeus, the commander of U.S. forces in Iraq.

Headlined "Cooking the Books for the White House," the ad which ran in Monday's Times says Petraeus is "a military man constantly at war with the facts" and concluded - even before he testified before Congress - that "General Petraeus is likely to become General Betray Us."

According to Abbe Serphos, director of public relations for the Times, "the open rate for an ad of that size and type is \$181,692."

A spokesman for MoveOn.org confirmed to The Post that the liberal activist group had paid only \$65,000 for the ad - a reduction of more than \$116,000 from the stated rate.

A Post reporter who called the Times advertising department yesterday without identifying himself was quoted a price of \$167,000 for a full-page black-and-white ad on a Monday.

Serphos declined to confirm the price and refused to offer any inkling for why the paper would give MoveOn.org such a discounted price.

Citing the shared liberal bent of the group and the Times, one Republican aide on Capitol Hill speculated that it was the "family discount."

"I'm surprised they had to pay anything at all for the ad," the GOP staffer said. "They could have just asked the editorial page to run it and it wouldn't have cost them a cent."

churt@nypost.com

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Associated Press photograph
Republican Rudolph W. Giuliani criticized the New York Times for running an ad accusing Gen. David H. Petraeus of "cooking the books for the White House."

MoveOn got timely break on ad rate

N.Y. Times denies discount is political

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By Claudia Parsons
REUTERS NEWS AGENCY

An ad criticizing the top U.S. general in Iraq raised charges yesterday over whether the New York Times slashed its advertising rates for political reasons—an accusation denied by the paper.

The liberal MoveOn.org confirmed that it paid \$63,000 for the full-page ad headlined "General Petraeus or General Betray Us" — about \$117,000 less than the Times' open rate for an ad of that size and type.

Times spokeswoman Catherine Mathis said that it is the paper's policy to not disclose the rate paid by any advertiser but that it did not alter advertising rates based on political content.

"The advertising folks did not see the content of the ad before the rate was quoted," she said, adding that rates varied among more than 30 categories of ads.

The ad ran in the Times' main news section on Monday, the first day of Army Gen. David H. Petraeus' testimony to Congress about the war and how long U.S. forces will stay in Iraq. It accused Gen. Petraeus of "cooking the books for the White House."

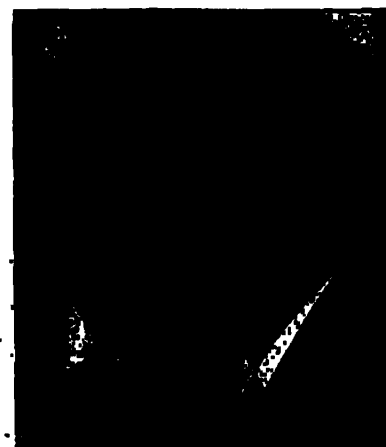
The New York Post ran a story yesterday asking why the basic rate of \$181,492 for such an ad was discounted. "Times Gives Lefties a Heavy Discount for 'Betray Us' Ad" was the headline in the Post.

Rudolph W. Giuliani, a leading candidate for the Republican presidential nomination, criticized the Times for the ad, which he called a "character assassination" of Gen. Petraeus.

"[I] call upon the New York Times to give us the same rate, the heavily discounted rate they gave MoveOn.org for that abominable ad," the former New York mayor told reporters in Atlanta, adding that he would be seeking to place an ad today.

Miss Mathis confirmed that the open rate for an ad of that size and type is about \$181,000. Among reasons for lower rates are advertisers buying in bulk or taking a standby rate, she said.

"There are many instances when we have published opinion advertisements



Rep. Duncan Hunter told House Armed Services Committee Chairman Ike Skelton and other lawmakers at a hearing Monday that he was "irritated" by the MoveOn.org ad.

that run counter to the stance we take on our own editorial pages," she said.

The ad angered Republicans, including Rep. Duncan Hunter of California, a presidential candidate who brought it to the Petraeus hearing on Monday and waved the ad in the air, telling lawmakers that he was "irritated" by it.

Jeff Jarvis, a journalism professor who blogs about media at Buzzmachine.com, said the key question for the Times is whether any other political or advocacy group gets the same rate under the same circumstances.

"The quandary the Times gets stuck in is they don't want to admit you can buy an ad for that rate, no matter who you are," Mr. Jarvis said, noting that with print advertising revenues in decline, newspapers generally do offer big discounts.

On a more general note, Mr. Jarvis said U.S. papers should emulate their counterparts in Britain, where, for example, the Guardian makes no effort to hide its liberal stance.

"In the U.S., I would argue newspapers should be more transparent and open about the views taken ... and the [New York] Times is liberal," he said.

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